"delineate areas where maximum concentrations are expected to occur for this type of source and thus where SO_2 monitoring systems should be placed."

Unfortunately, the monitoring sites proposed by Ameren are not, in fact, located in "areas of maximum SO_2 impact from the Rush Island Energy Center," as required by the Consent Agreement.

Figures 1 through 4 below show the results of Ameren's modeling, which we derived using model input files provided by DNR. Figure 1 shows modeled SO_2 design values in the vicinity of the plant; Figure 2 shows receptors with modeled design values greater than or equal to 75 percent of the maximum modeled design value (146.1 ug/m^3); Figure 3 shows the number of times the model-derived maximum daily 1-hour concentration exceeded 75 percent of the maximum modeled design value at each receptor; and Figure 4 shows the receptors with the top 200, 100, 25, and 10 modeled design values. The locations of the plant and the proposed Fults, Natchez, and Weaver-AA SO_2 monitoring stations and the proposed Tall Tower meteorological monitoring station are shown on all figures for reference.

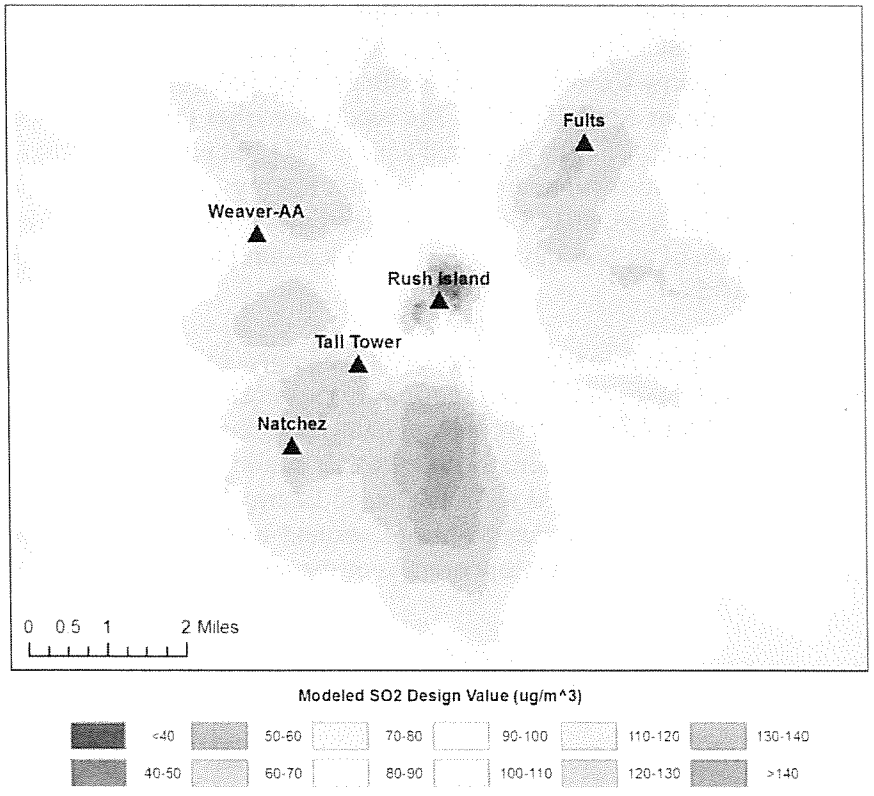

Figure 1. Modeled SO_2 design values in the vicinity of the Rush Island Energy Center.

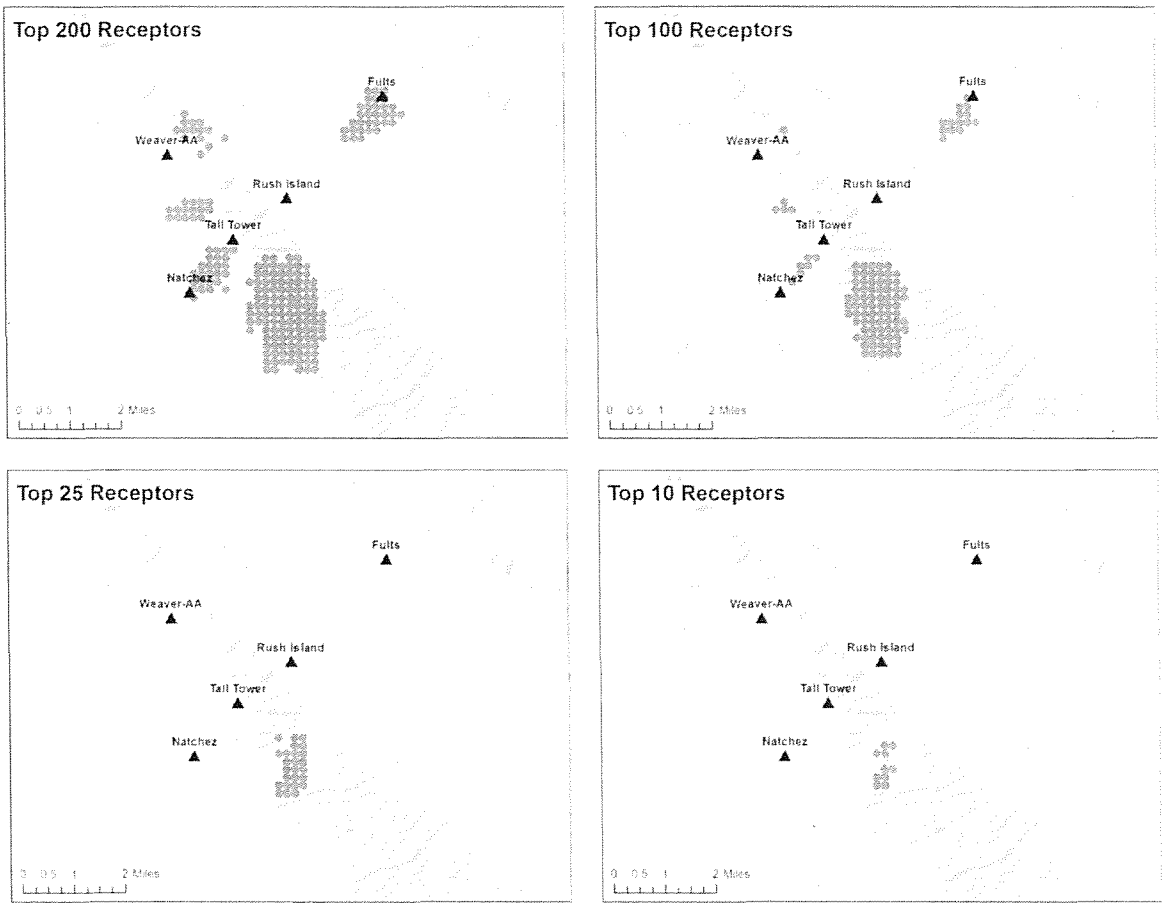

Figure 4. Receptors with the top 200, 100, 25, and 10 modeled design values.

Figures 1 through 4 all reveal a strikingly similar pattern regarding the areas where peak 1-hour SO_2 concentrations are expected to occur around the Rush Island Energy Center. There is a large area due south of the plant where modeled design values are the highest (in excess of 95 percent of the maximum modeled design value), where modeled maximum daily 1-hour concentrations frequently exceeded 75 percent of the maximum modeled design value, and where over half of the top 200 receptors (including all of the top 25 and three quarters of the top 100) are located. There are also four other areas where modeled design values are slightly lower but still very high (in excess of 85 percent of the maximum modeled design value), where modeled maximum daily 1-hour concentrations frequently exceeded 75 percent of the maximum modeled design value, and where the rest of the top 200 receptors are located. These four areas, located northeast, northwest, west, and southwest of the plant, plus the area south of the plant where modeled design values are the highest, are where Ameren's modeling predicts peak 1-hour SO_2 concentrations are expected to occur. Monitoring stations located in these areas would have the greatest chance of identifying peak SO_2 concentrations in ambient air, which is the primary objective of source-oriented monitoring and an absolute necessity when monitoring to assess

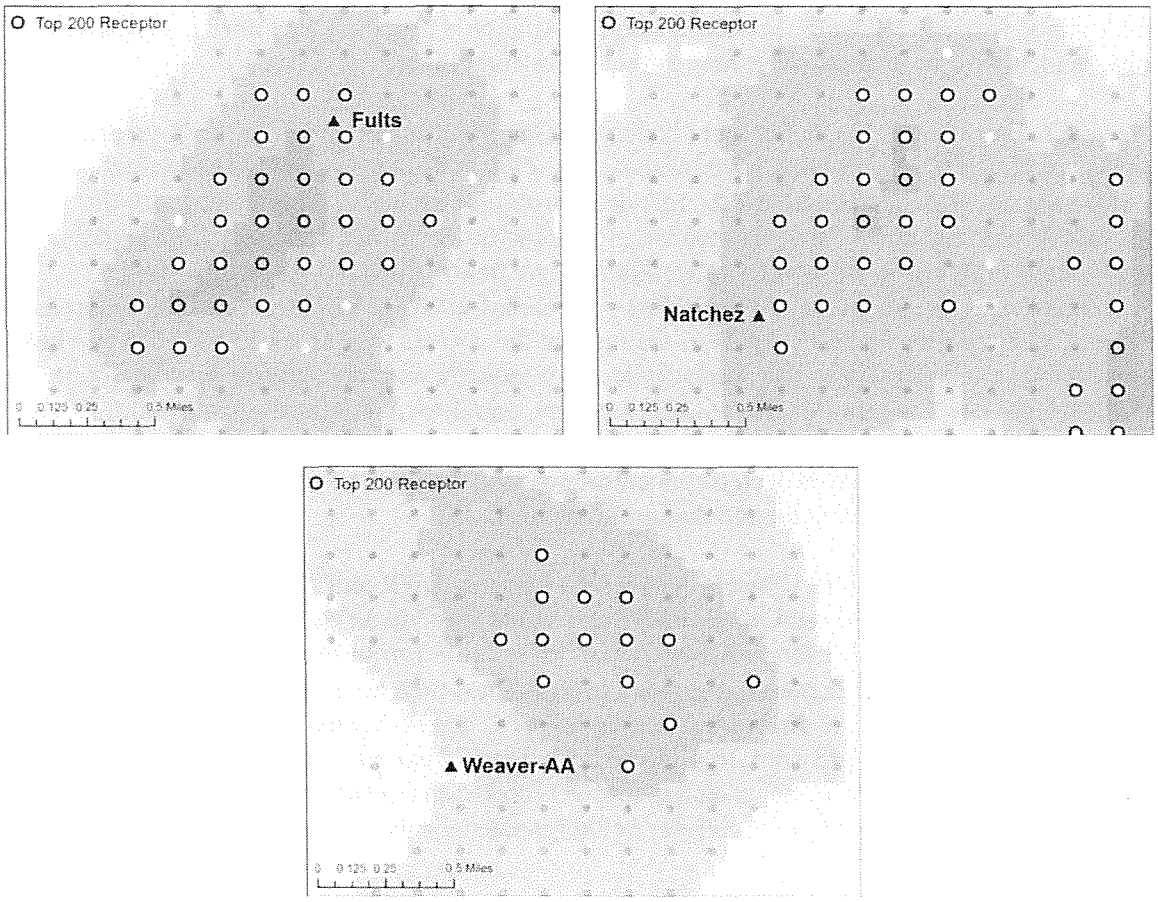

Figure 5. Modeled design values, receptors with design values ≥75 percent of the maximum modeled design value, and proposed monitoring station locations.

surrounding its current location generally have modeled design values equal to 85-90 percent of the maximum modeled design value). The entire area is floodplain/agricultural and Ivy Road, oriented northeast-southwest, runs through the middle of it, making the proposed optimized location as accessible as Ameren's proposed location and equally easy to provide power to.

Natchez – The Natchez monitoring station is outside/on the outer edge of an area where peak 1-hour SO_2 concentrations are expected to occur. Moving it approximately one kilometer northeast of its current location would move it from an area with modeled design values in the 120-130 ug/m^3 range to an area with modeled design values in the 130-140 ug/m^3 range, and place it between a pair of receptors with modeled design values equal to 90-95 percent of the maximum modeled design value (the receptors surrounding its current location have modeled design values equal to 80-90 percent of the maximum modeled design value). It would also move it to an area where higher concentrations are expected to occur with slightly greater frequency. The proposed optimized location is accessible via transmission right of way, and power is available along Dubois Creek Road to the south-southwest.

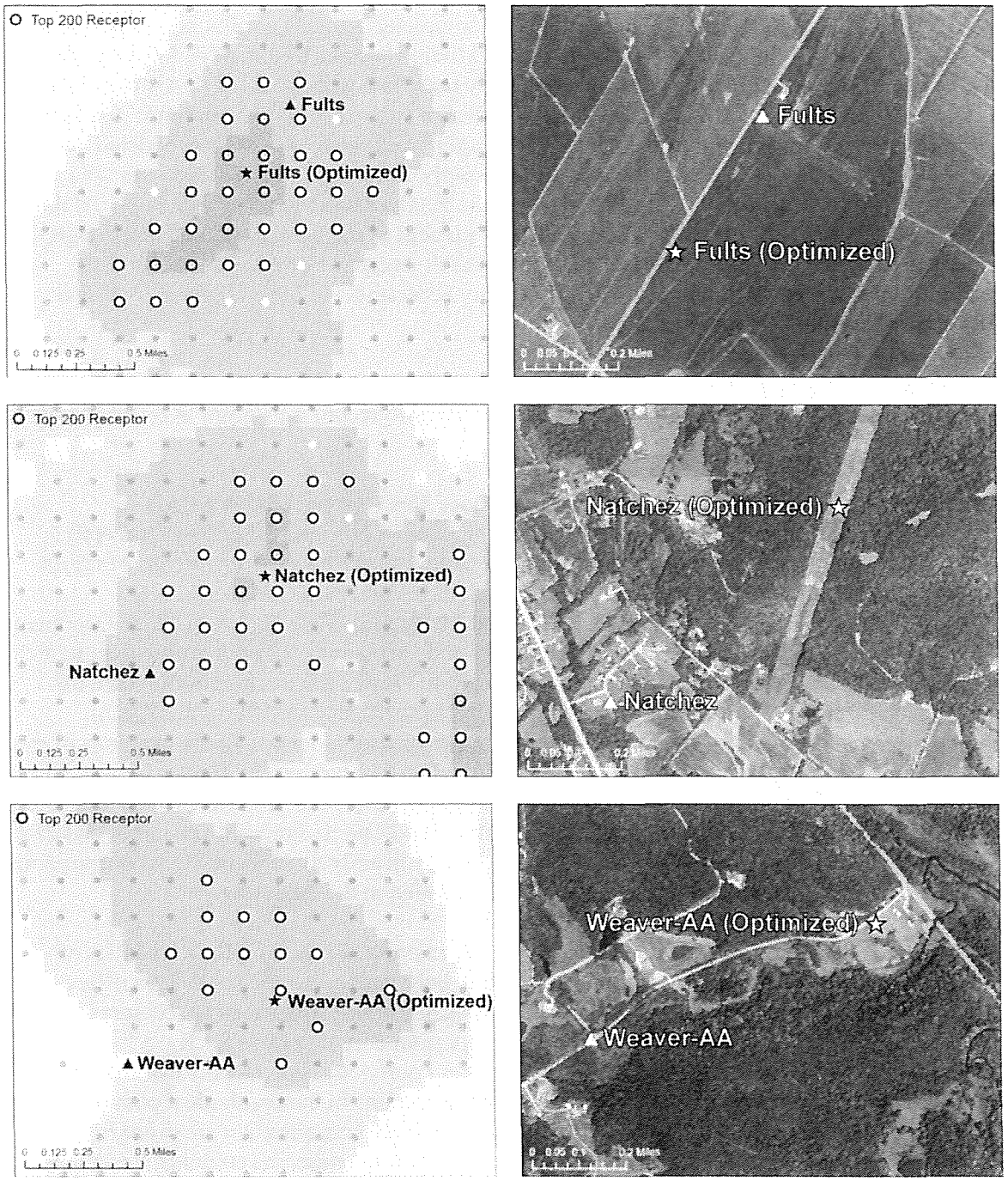

Figure 6. Current and optimized locations of the Fults, Natchez, and Weaver-AA monitoring stations

documented inaccessibility of potential monitoring sites in that area. The absence of a monitor in this large area of expected maximum concentration calls into question whether the proposed SO_2 monitoring network is an appropriate means of assessing compliance with the NAAQS in the area around the plant.

Ameren's proposed monitoring network does not fulfill its requirement under the Consent Agreement to install a monitoring network designed to record maximum expected SO_2 concentrations in the vicinity of the Rush Island plant. Nor is it designed to achieve Ameren's purported goal of obtaining "a good quality data set with representative SO_2 measurements and meteorological information"[5] or DNR's stated goal "to true-up modeling results further away from the Mott Street monitor … to confirm our assessment that the nonattainment area is in compliance with the 1-hour SO2 standard farther away from the violating monitor."[6]

We urge DNR to reject the proposed monitoring sites and require Ameren to add a monitoring station in the highest concentration area due south of the plant as well as to relocate the proposed Fults, Natchez, and Weaver-AA monitoring stations to the optimized locations shown in Figure 5. We also urge DNR to require Ameren to 1) rerun the air dispersion model described in the report using Rush Island's actual hourly emissions; 2) evaluate the effects of nearby interactive sources (including, at a minimum, River Cement, St. Gobain Containers, Holcim, Mississippi Lime, Dynegy's Baldwin Energy Complex, and Ameren's Meramec Energy Center) on modeled peak concentration/high frequency areas; and 3) evaluate the appropriateness of using meteorological data from the Cahokia, Illinois airport instead of Doe Run Herculaneum given DNR's determination that the latter is more representative of the modeled area.[7] We further urge DNR to require any necessary adjustments to the proposed monitoring network based on the results of these analyses.

Respectfully submitted,

Maxine I. Lipeles, J.D.
Ken Miller, P.G.
Interdisciplinary Environmental Clinic
Washington University School of Law

On behalf of the Sierra Club

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[5] DNR, Comments and Responses on Proposed Revision to Missouri State Implementation Plan – Nonattainment Plan for the 2010 1-Hour Sulfur Dioxide National Ambient Air Quality Standard – Jefferson County Sulfur Dioxide Nonattainment Area, Comment #21, p. 10, available at http://dnr.mo.gov/env/apcp/docs/comments-and-responses-jeffco.pdf.

[6] *Id.*, Response to Comment #4, p. 3.

[7] This analysis should consider and make use of the corrected Herculaneum meteorological data set processed in AERMET with the Bulk Richardson Number option invoked.

Section 110 (k) Environmental Protection Agency Action on Plan Submissions. (1) Completeness of plan submissions. ... (B) **Completeness finding. Within 60 days of the Administrator's receipt of a plan or plan revision, but no later than 6 months after the date, if any, by which a State is required to submit the plan or revision, the Administrator shall determine whether the minimum criteria established pursuant to subparagraph (A) have been met**. Any plan or plan revision that a State submits to the Administrator, and that has not been determined by the Administrator (by the date 6 months after receipt of the submission) to have failed to meet the minimum criteria established pursuant to subparagraph (A), shall on that date be deemed by operation of law to meet such minimum criteria. (C) Effect of finding of incompleteness. Where the Administrator determines that a plan submission (or part thereof) does not meet the minimum criteria established pursuant to subparagraph (A), the State shall be treated as not having made the submission (or, in the Administrator's discretion, part thereof). (2) **Deadline for action. Within 12 months of a determination by the Administrator (or a determination deemed by operation of law) under paragraph (1) that a State has submitted a plan or plan revision (or, in the Administrator's discretion, part thereof) that meets the minimum criteria established pursuant to paragraph (1), if applicable (or, if those criteria are not applicable, within 12 months of submission of the plan or revision), the Administrator shall act on the submission in accordance with paragraph (3)**. (3) Full and partial approval and disapproval. In the case of any submittal on which the Administrator is required to act under paragraph (2), the Administrator shall approve such submittal as a whole if it meets all of the applicable requirements of this Act. If a portion of the plan revision meets all the applicable requirements of this Act, the Administrator may approve the plan revision in part and disapprove the plan revision in part. The plan revision shall not be treated as meeting the requirements of this Act until the Administrator approves the entire plan revision as complying with the applicable requirements of this Act. (4) Conditional approval. The Administrator may approve a plan revision based on a commitment of the State to adopt specific enforceable measures by a date certain, but not later than 1 year after the date of approval of the plan revision. Any such conditional approval shall be treated as a disapproval if the State fails to comply with such commitment. (5) Calls for plan revisions. Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section 176A or section 184, or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions. Such findings and notice shall be public. Any finding under this paragraph shall, to the extent the Administrator deems appropriate, subject the State to the requirements of this Act to which the State was subject when it developed and submitted the plan for which such finding was made, except that the Administrator may adjust any dates applicable under such requirements as appropriate (except that the Administrator may not adjust any attainment date prescribed under part D, unless such date has elapsed). (6) Corrections. Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public. (l) Plan Revisions. Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

Section 113. Federal Enforcement. (a) In General. (1) **Order to comply with SIP.** Whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of an applicable implementation plan or permit, the Administrator shall notify the person and the State in which the plan applies of such finding. At any time after the expiration of 30 days following the date on which such notice of a violation is issued, the Administrator may, without regard to the period of violation (subject to section 2462 of title 28 of the United States Code) (A) issue an order requiring such person to comply with the requirements or prohibitions of such plan or permit, (B) issue an administrative penalty order in accordance with subsection (d), or (C) bring a civil action in accordance with subsection (b). (2) State failure to enforce sip or permit program. Whenever, on the basis of information available to the Administrator, the Administrator finds that violations of an applicable implementation plan or an approved permit program under title V are so widespread that such violations appear to result from a failure of the State in which the plan or permit program applies to enforce the plan or permit program effectively, the Administrator shall so notify the State. In the case of a permit program, the notice shall be made in accordance with title V. If the Administrator finds such failure extends beyond the 30th day after such notice (90 days in the case of such permit program), the Administrator shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan or permit program (hereafter referred to in this section as "period of federally assumed enforcement"), the Administrator may enforce any requirement or prohibition of such plan or permit program with respect to any person by (A) issuing an order requiring such person to comply with such requirement or prohibition, (B) issuing an administrative penalty order in accordance with subsection (d), or (C) bringing a civil action in accordance with subsection (b). (3) EPA enforcement of other requirements. Except for a requirement or prohibition enforceable under the preceding provisions of this subsection, whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any other requirement or prohibition of this title, section 303 of title III, title IV, title V, or title VI, including, but not limited to, a requirement or prohibition of any rule, plan, order, waiver, or permit promulgated, issued, or approved under those provisions or titles, or for the payment of any fee owed to the United States under this Act (other than title II), the Administrator may (A) issue an administrative penalty order in accordance with subsection (d), (B) issue an order requiring such person to comply with such requirement or prohibition, (C) bring a civil action in accordance with subsection (b) or section 305, or (D) request the Attorney General to commence a criminal action in accordance with subsection (c).

No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate criteria and procedures for determining conformity (except in the case of transportation plans, programs, and projects) of, and for keeping the Administrator informed about, the activities referred to in paragraph (1). [This provision is commonly referred to as general conformity. Please see -- 40 CFR Section 51 Subpart W - Determining Conformity of General Federal Actions to State or Federal Implementation Plans, Sections 51.850 through 51.860.

Sources ---- Federal Register, Tuesday, November 30, 1993, vol. 58, page 63213-63259; Final Rule, Determining Conformity of General Federal Actions to State or Federal Implementation Plans; 40 CFR Parts 6, 51 and 93;]

No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate criteria and procedures for demonstrating and assuring conformity in the case of transportation plans, programs, and projects. [This provision is commonly referred to as transportation conformity. Please see -- 40 CFR Section 51 Subpart T - Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, Sections 51.390 through 51.464.

Sources ---- Federal Register, Wednesday, November 24, 1993, vol. 58, pages 62187-662253; Final Rule, Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act; 40 CFR Parts 51 and 93;

As amended by - Federal Register, Wednesday, February 8, 1995, vol. 60, pages 7449-7453; Interim Final Rule, Transportation Conformity Rule Amendments: Transition to the Control Strategy Period; 40 CFR Parts 51 and 93;

As amended by the first set of amendments - Federal Register, Monday, August 7, 1995, vol. 60, pages 40098-40101; Final Rule, Transportation Conformity Rule Amendments: Transition to the Control Strategy Period; 40 CFR Parts 51 and 93;

As amended by - Federal Register, Tuesday, August 29, 1995, vol. 60, pages 44762-44763; Interim Final Rule, Transportation Conformity Rule Amendments: Authority for Transportation Conformity Nitrogen Oxides Waivers; 40 CFR Parts 51 and 93;

As amended by the second set of conformity amendments - Federal Register, Tuesday, November 14, 1995, vol 60, pages 57179-57186; Final Rule, Transportation Conformity Rule Amendments: Miscellaneous Revisions; 40 CFR Parts 51 and 93;

As amended by the third set of conformity amendments - Federal Register, Tuesday, August 15, 1997, vol 62, pages 43779-43818; Final Rule, Transportation Conformity Rule Amendments: Flexibility and Streamlining; 40 CFR Parts 51 and 93.]

(B) may provide any such Indian tribe grant and contract assistance to carry out functions provided by this Act.

(2) The Administrator shall promulgate regulations within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, specifying those provisions of this Act for which it is appropriate to treat Indian tribes as States. Such treatment shall be authorized only if-

(A) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

(B) the functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the tribe's jurisdiction; and

(C) the Indian tribe is reasonably expected to be capable, in the judgment of the Administrator, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and all applicable regulations.

(3) The Administrator may promulgate regulations which establish the elements of tribal implementation plans and procedures for approval or disapproval of tribal implementation plans and portions thereof.

(4) In any case in which the Administrator determines that the treatment of Indian tribes as identical to States is inappropriate or administratively infeasible, the Administrator may provide, by regulation, other means by which the Administrator will directly administer such provisions so as to achieve the appropriate purpose.

(5) Until such time as the Administrator promulgates regulations pursuant to this subsection, the Administrator may continue to provide financial assistance to eligible Indian tribes under section 105. [42 U.S.C. 7601]

Section 302. When used in this Act-

(a) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(b) The term "air pollution control agency" means any of the following:

(1) A single State agency designated by the Governor of that State as the official State air pollution control agency for purposes of this Act.

(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution.

(3) A city, county, or other local government health authority, or, in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency.

(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution.

(5) An agency of an Indian tribe.

(c) The term "interstate air pollution control agency" means-

(1) an air pollution control agency established by two or more States, or

(2) an air pollution control agency of two or more municipalities located in different States.

(p) The term "schedule and timetable of compliance" means a schedule of required measures including an enforceable sequence of actions or operations leading to compliance with an emission limitation, other limitation, prohibition, or standard.

(q) For purposes of this Act, the term "applicable implementation plan" means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 110, or promulgated under section 110(c), or promulgated or approved pursuant to regulations promulgated under section 301(d) and which implements the relevant requirements of this Act.

(r) Indian Tribe.- The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(s) VOC.- The term "VOC" means volatile organic compound, as defined by the Administrator.

(t) PM-10.- The term "PM-10" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers, as measured by such method as the Administrator may determine.

(u) NAAQS and CTG.- The term "NAAQS" means national ambient air quality standard. The term "CTG" means a Control Technique Guideline published by the Administrator under section 108.

(v) NOx.- The term "NOx " means oxides of nitrogen.

(w) CO.- The term "CO" means carbon monoxide.

(x) Small Source.- The term "small source" means a source that emits less than 100 tons of regulated pollutants per year, or any class of persons that the Administrator determines, through regulation, generally lack technical ability or knowledge regarding control of air pollution.

(y) Federal Implementation Plan.- The term "Federal implementation plan" means a plan (or portion thereof) promulgated by the Administrator to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy in a State implementation plan, and which includes enforceable emission limitations or other control measures, means or techniques (including economic incentives, such as marketable permits or auctions of emissions allowances), and provides for attainment of the relevant national ambient air quality standard.

(z) Stationary Source.- The term "stationary source" means generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216.

[42 U.S.C. 7602]

1 So in original. Second period added by P.L. 10109549, sec. 302(e), 104 Stat. 2574.

Section 304. Citizen Suits. (a) Except as provided in subsection (b), any person may commence a civil action on his own behalf (1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of (A) an emission standard or limitation under this Act or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, (2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty

determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination. Any petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the Federal Register, except that if such petition is based solely on grounds arising after such sixtieth day, then any petition for review under this subsection shall be filed within sixty days after such grounds arise. The filing of a petition for reconsideration by the Administrator of any otherwise final rule or action shall not affect the finality of such rule or action for purposes of judicial review nor extend the time within which a petition for judicial review of such rule or action under this section may be filed, and shall not postpone the effectiveness of such rule or action.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in civil or criminal proceedings for enforcement. Where a final decision by the Administrator defers performance of any nondiscretionary statutory action to a later time, any person may challenge the deferral pursuant to paragraph (1).

(c) In any judicial proceeding in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as to(4) the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

(d)(1) This subsection applies to

(A) the promulgation or revision of any national ambient air quality standard under section 109,

(B) the promulgation or revision of an implementation plan by the Administrator under section 110(c),

(C) the promulgation or revision of any standard of performance under section 111, or emission standard or limitation under section 112(d), any standard under section 112(f), or any regulation under section 112(g)(1)(D) and (F), or any regulation under section 112(m) or (n),

(D) the promulgation of any requirement for solid waste combustion under section 129,

(E) the promulgation or revision of any regulation pertaining to any fuel or fuel additive under section 211,

(F) the promulgation or revision of any aircraft emission standard under section 231,

(G) the promulgation or revision of any regulation under title IV (relating to control of acid deposition),

(B) the methodology used in obtaining the data and in analyzing the data; and

(C) the major legal interpretations and policy considerations underlying the proposed rule. The statement shall also set forth or summarize and provide a reference to any pertinent findings, recommendations, and comments by the Scientific Review Committee established under section 109(d) and the National Academy of Sciences, and, if the proposal differs in any important respect from any of these recommendations, an explanation of the reasons for such differences. All data, information, and documents referred to in this paragraph on which the proposed rule relies shall be included in the docket on the date of publication of the proposed rule.

(4)(A) The rulemaking docket required under paragraph (2) shall be open for inspection by the public at reasonable times specified in the notice of proposed rulemaking. Any person may copy documents contained in the docket. The Administrator shall provide copying facilities which may be used at the expense of the person seeking copies, but the Administrator may waive or reduce such expenses in such instances as the public interest requires. Any person may request copies by mail if the person pays the expenses, including personnel costs to do the copying.

(B)(i) Promptly upon receipt by the agency, all written comments and documentary information on the proposed rule received from any person for inclusion in the docket during the comment period shall be placed in the docket. The transcript of public hearings, if any, on the proposed rule shall also be included in the docket promptly upon receipt from the person who transcribed such hearings. All documents which become available after the proposed rule has been published and which the Administrator determines are of central relevance to the rulemaking shall be placed in the docket as soon as possible after their availability.

(ii) The drafts of proposed rules submitted by the Administrator to the Office of Management and Budget for any interagency review process prior to proposal of any such rule, all documents accompanying such drafts, and all written comments thereon by other agencies and all written responses to such written comments by the Administrator shall be placed in the docket no later than the date of proposal of the rule. The drafts of the final rule submitted for such review process prior to promulgation and all such written comments thereon, all documents accompanying such drafts, and written responses thereto shall be placed in the docket no later than the date of promulgation.

(5) In promulgating a rule to which this subsection applies (i) the Administrator shall allow any person to submit written comments, data, or documentary information; (ii) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (iii) a transcript shall be kept of any oral presentation; and (iv) the Administrator shall keep the record of such proceeding open for thirty days after completion of the proceeding to provide an opportunity for submission of rebuttal and supplementary information.

(6)(A) The promulgated rule shall be accompanied by (i) a statement of basis and purpose like that referred to in paragraph (3) with respect to a proposed rule and (ii) an explanation of the reasons for any major changes in the promulgated rule from the proposed rule.

(B) The promulgated rule shall also be accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period.

(C) The promulgated rule may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation.

(h) Public Participation. It is the intent of Congress that, consistent with the policy of the Administrative Procedures Act, the Administrator in promulgating any regulation under this Act, including a regulation subject to a deadline, shall ensure a reasonable period for public participation of at least 30 days, except as otherwise expressly provided in section 107(d), 172(a), 181(a) and (b), and 186(a) and (b).

[42 U.S.C. 7607]

1 Double commas added by P.L. 10109549, sec. 703, 104 Stat. 2681.

2 Public Law 950995 inserted the additional comma after the words "under section 111".

3 P.L. 10109549, sec. 706(2), 104 Stat. 2682, inserted the additional comma after the words "under section 112,".

4 So in original public law. The word "to" probably should not appear.

5 So in law. P.L. 10109549, sec. 302(h) added a new subparagraph (D) and "redesignated the succeeding subparagraphs accordingly". Section 110(5)(C) of P.L. 10109549 added new subparagraphs (N)09(T). Neither amendment gave reference to the other.